

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	Criminal Action No. 1:23-cr-00061-MN
)	
ROBERT HUNTER BIDEN,)	
)	
Defendant.)	
_____)	

**MR. BIDEN’S OBJECTIONS TO THE SPECIAL COUNSEL’S
REVISED TRIAL EXHIBITS**

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Mr. Biden files the foregoing objections to the Special Counsel’s revised trial exhibits produced on Friday May 31, 2024.¹ Following the government’s initial production of its exhibits, Mr. Biden’s counsel notified the government of his objections in a letter dated May 27, 2024. The government made a few changes but its revised list contains the same objected-to exhibits (with modifications made only to GTX-38). Because of the lack of relevance, minimal probative value, cumulativeness, and potential for significant prejudicial effect of these exhibits under Federal Rules of Evidence 403 and 401, Mr. Biden seeks an Order precluding the government from seeking their admission at trial, or applying the appropriate redactions if necessary (e.g., to monthly bank statements). Mr. Biden does not believe the Special Counsel will suffer any prejudice from the exclusion of the few exhibits outlined below.

Mr. Biden objects to the following government exhibits:

Gov’t Ex. No.	Biden’s Objection
18 [Lines 214 – 292]	Pursuant to Federal Rules of Evidence 401 and 403, Biden objects to the text messages in the government’s 1006 Summary Chart contained in Rows 214 – 292, which occurred between January 14, 2019 and March 7, 2019, as being from well beyond the relevant period when Biden purchased a handgun and as being more prejudicial than probative under Rule 403. To the extent the government wants to argue these messages (and their substance) are probative of Biden’s alleged drug use or addiction in this period, the messages are cumulative of what is already presented in the prior 213 rows in the year 2018.
18C	Pursuant to Federal Rules of Evidence 401 and 403, Biden objects to use of this video dated 12/22/2018 because it is dated more than two months after the relevant period when Biden purchased a handgun and displays Biden in the nude, which is more prejudicial than probative under Rule 403. Because this evidence is cumulative of other documentary evidence the government will introduce, we do not think it should be displayed to the jury.

¹ The Special Counsel provided an initial set of exhibit at the pre-trial conference on May 24, 2024. Mr. Biden’s counsel sent the Special Counsel initial objections to certain of those exhibits on May 27, 2024 and sought clarification on the relevance, probative value and intended use of certain of those exhibits. On May 31, 2024, the Special Counsel provided a revised set of trial exhibits, some of which were new exhibits or summary charts.

Gov't Ex. No.	Biden's Objection
18D	Pursuant to Federal Rules of Evidence 401 and 403, Biden objects to the use of this video dated 12/29/2018 because it is dated close to three months after the relevant period when Biden purchased a handgun and is more prejudicial and inflammatory than it is probative under Rule 403. GTX-18D is also cumulative of other documentary evidence the government will introduce. Furthermore, to the extent the government also intends to suggest the voice heard in the background is Biden's, we object to any suggestion this is Biden's voice.
18E	Pursuant to Federal Rules of Evidence 401 and 403, Biden objects to the use of this partially redacted photo displaying alleged drug paraphernalia dated 1/14/2019 because it is dated more than four months after the relevant period when Biden purchased a gun and is more prejudicial and inflammatory than it is probative under Rule 403. GTX-18E is also cumulative of other documentary evidence the government will introduce.
18F	Biden objects to the use of this partially-redacted photo displaying alleged drug paraphernalia dated 1/31/2019 because it is dated almost five months after the relevant period when Biden purchased a gun, does not establish where the photo was taken and, therefore, who might be the owner of the smoking device that is in the background, and is more prejudicial than it is probative under Rule 403. GTX-18F is also cumulative of other documentary evidence the government will introduce.
19, 20A-20Q	<p>As defense counsel indicated it would do at the May 24, 2024 pretrial conference, it proposed additions to the excerpts that the government has marked from Biden's memoir, <i>Beautiful Things</i> (GTX-19). The government rejected Biden's additions. Therefore, Biden objects to certain redactions the government made to excerpts of Biden's statements in <i>Beautiful Things</i>, on pages 5, 139, 141, 146, 158, 201, 202, 219, 220, and the omission of 221. Pursuant to the Court's order on May 29, 2024 after the pretrial conference, and subject to the Rule of Completeness, Biden requests an Order that the government incorporate the following relevant sentences into GTX-19 and the corresponding audio book clips in GTXs 20A – 20Q, as the Court has permitted us to do. Biden's requested additions on each page, combined with the government's marked portions, are attached as Exhibit 1.²</p> <p><u>GTX-19, Page 5</u> [Ex. 1, p. 5] Add: "That deep descent came..." through the end of "alone. I lost hope." <u>GTX-19, Page 139</u> [Ex. 1, p. 135] Add: "I'd stayed sober since..." through the end of "or six major clients." <u>GTX-19, Page 141</u> [Ex. 1, p. 137] Add: "The discussion quickly turned..." through the end of "couple of drinks afterward." <u>Page 146</u> [Ex. 1, p. 142] Add: "Crazy as it sounds..." through the end of "on about my business."</p>

² Biden has noted his requested additions with a red bracket, which are redacted in GTX-19. Biden has noted the government's selected portions contained in GTX-19 with a black bracket.

Gov't Ex. No.	Biden's Objection
	<p><u>Page 158</u> [Ex. 1, p. 154] Add: "addiction is so complex..." through the end of "money, and emotional currency." <u>Page 201</u> [Ex. 1, p. 196] Add: "Uncle Jimmy is my..." through the end of "something, I'd do it." <u>Page 202</u> [Ex. 1, p. 197] Add: "My lesson after a..." through the end of "Unimaginably awful." <u>Page 219</u> [Ex. 1, p. 212] Add: "I was committed to one..." through the end of "my lone, next-level goal." <u>Page 220</u> [Ex. 1, p. 213] Add: "As bad as it got..." through the end of "headfirst into the void." <u>Page 221</u> [Ex. 1, p. 214] Add: "I was done finding..." through the end of "what I was doing."</p>
<p>28/28A 29/29A 30/30A 31/31A 32/32A 33/33A 34/34A 35/35A 36/36A 37/37A</p>	<p>Biden objects to the introduction of entire monthly Wells Fargo bank statements in September, October, and November 2018 from certain of his personal and business bank accounts, without redactions to irrelevant, unrelated, and in some cases prejudicial personal transactions under Rules 401 and 403 (e.g., adult entertainment expenses, hotel expenses, other lifestyle charges). As the parties have agreed to the authenticity of these bank records, then only those line items or transactions which are relevant, other than the dozens of other pages, should be admitted. If the government does not intend to publish GTX28, GTX29, GTX30, GTX31, GTX32, GTX33, GTX34, GTX35, GTX36, and GTX37 to the jury, Biden has no objection.</p> <p>To the extent the government seeks to introduce only certain transactions, we asked that they please identify those transactions in advance of trial or provide the Court and counsel with redacted copies of these statements.</p>
<p>38</p>	<p>Biden objects to three photos included in GTX-38 ("Photos from Zoe Kestan's iPhone") as having no probative value and no relevance under Rules 401 and 403. The screenshots with Ms. Kestan and one photo of Mr. Biden sleeping, in which no drug paraphernalia is displayed or otherwise evidence, are not probative of drug use, drug purchasing, or drug-related activity and are more prejudicial than probative. Any testimony from Ms. Kestan about the nature of their interactions can be elicited on direct testimony, without introduction of these three photos.</p> <p>Page 7: Photo of Mr. Biden sleeping on 6/18/2018 at 10:41 AM Page 10: Photo of Mr. Biden on facetime with Ms. Kestan on 7/22/2018 at 7:13 PM Page 11: Photo of Mr. Biden without clothing on and a tattoo on his back on 9/10/2018 at 5:09 PM</p> <p>The government has not provided its position on the relevance or probative value of these photos under Rules 401 and 403, and Mr. Biden believes there is none.</p>

Accordingly, Mr. Biden respectfully requests the Court issue an Order to:

- (1) Exclude Rows 214 – 292 in GTX-18 (1006 Summary Chart);
- (2) Exclude GTX-18C, GTX-18D, GTX-18E, and GTX-18F;
- (3) Incorporate the additional relevant sentences from Biden’s memoir identified in Exhibit 1 (in red) into GTX-19 and the corresponding audio book clips (GTX 20A – 20Q), pursuant to the Rule of Completeness;
- (4) Exclude the blanket introduction of Biden’s Wells Fargo bank statements (GTX28, GTX29, GTX30, GTX31, GTX32, GTX33, GTX34, GTX35, GTX36, and GTX37) without proper redactions, or otherwise preclude the government from publishing the entire statements to the jury; and
- (5) Exclude three photos of Mr. Biden in GTX-38, dated 6/18/2018, 7/22/2018, and 9/10/2018, which have no relevance or probative value.

Dated: June 2, 2024

Respectfully submitted,

/s/ Abbe David Lowell

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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2024, I filed the foregoing Objections to the Special Counsel's Revised Trial Exhibits with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/ Abbe David Lowell
Abbe David Lowell

Counsel for Robert Hunter Biden